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RICHARD W. WIEKING  
CLERK, U.S. DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

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BMG MUSIC; SONY BMG MUSIC  
ENTERTAINMENT; WARNER BROS.  
RECORDS INC.; INTERSCOPE RECORDS;  
ELEKTRA ENTERTAINMENT GROUP INC.; **E-filing**  
MOTOWN RECORD COMPANY, L.P.;  
LAFACE RECORDS LLC; FONOVisA, INC.;  
and UMG RECORDINGS, INC.

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

RMW  
RS

BMG MUSIC, a New York general partnership;  
SONY BMG MUSIC ENTERTAINMENT, a  
Delaware general partnership; WARNER BROS.  
RECORDS INC., a Delaware corporation;  
INTERSCOPE RECORDS, a California general  
partnership; ELEKTRA ENTERTAINMENT  
GROUP INC., a Delaware corporation;  
MOTOWN RECORD COMPANY, L.P., a  
California limited partnership; LAFACE  
RECORDS LLC, a Delaware limited liability  
company; FONOVisA, INC., a California  
corporation; and UMG RECORDINGS, INC., a  
Delaware corporation,

Plaintiffs,

v.

JOHN DOE,

Defendant.

CASE NO. **CV 07**

**6034**

**COMPLAINT FOR COPYRIGHT  
INFRINGEMENT**

**JURISDICTION AND VENUE**

1  
2 1. This is a civil action seeking damages and injunctive relief for copyright infringement  
3 under the copyright laws of the United States (17 U.S.C. § 101 *et seq.*).

4 2. This Court has jurisdiction under 17 U.S.C. § 101 *et seq.*; 28 U.S.C. § 1331 (federal  
5 question); and 28 U.S.C. § 1338(a) (copyright).

6 3. Venue in this District is proper. See 28 U.S.C. §§ 1391(b), 1400(a). Although the  
7 true identity of Defendant is unknown to Plaintiffs at this time, on information and belief, Defendant  
8 may be found in this District and/or a substantial part of the acts of infringement complained of  
9 herein occurred in this District. On information and belief, personal jurisdiction in this District is  
10 proper because Defendant, without consent or permission of the copyright owner, disseminated over  
11 the Internet copyrighted works owned and/or controlled by Plaintiffs. On information and belief,  
12 such illegal dissemination occurred in every jurisdiction in the United States, including this one. In  
13 addition, Defendant contracted with an Internet Service Provider ("ISP") found in this District to  
14 provide Defendant with the access to the Internet which facilitated Defendant's infringing activities.

**PARTIES**

15  
16 4. Plaintiff BMG Music is a general partnership duly organized and existing under the  
17 laws of the State of New York, with its principal place of business in the State of New York.

18 5. Plaintiff SONY BMG MUSIC ENTERTAINMENT is a Delaware general  
19 partnership, with its principal place of business in the State of New York.

20 6. Plaintiff Warner Bros. Records Inc. is a corporation duly organized and existing  
21 under the laws of the State of Delaware, with its principal place of business in the State of  
22 California.

23 7. Plaintiff Interscope Records is a California general partnership, with its principal  
24 place of business in the State of California.

25 8. Plaintiff Elektra Entertainment Group Inc. is a corporation duly organized and  
26 existing under the laws of the State of Delaware, with its principal place of business in the State of  
27 New York.  
28

## COUNT I

## INFRINGEMENT OF COPYRIGHTS

14. Plaintiffs incorporate herein by this reference each and every allegation contained in each paragraph above.

1           16. Among the exclusive rights granted to each Plaintiff under the Copyright Act are the  
2 exclusive rights to reproduce the Copyrighted Recordings and to distribute the Copyrighted  
3 Recordings to the public.

4           17. Plaintiffs are informed and believe that Defendant, without the permission or consent  
5 of Plaintiffs, has continuously used, and continues to use, an online media distribution system to  
6 download and/or distribute to the public certain of the Copyrighted Recordings. Exhibit A identifies  
7 the IP address with the date and time of capture and a list of copyrighted recordings that Defendant  
8 has, without the permission or consent of Plaintiffs, downloaded and/or distributed to the public.  
9 Through his or her continuous and ongoing acts of downloading and/or distributing to the public the  
10 Copyrighted Recordings, Defendant has violated Plaintiffs' exclusive rights of reproduction and  
11 distribution. Defendant's actions constitute infringement of Plaintiffs' copyrights and/or exclusive  
12 rights under copyright. (In addition to the sound recordings listed on Exhibit A, Plaintiffs are  
13 informed and believe Defendant has, without the permission or consent of Plaintiffs, continuously  
14 downloaded and/or distributed to the public additional sound recordings owned by or exclusively  
15 licensed to Plaintiffs or Plaintiffs' affiliate record labels, and Plaintiffs believe that such acts of  
16 infringement are ongoing. Exhibit A includes the currently-known total number of audio files being  
17 distributed by Defendant.)

18           18. Plaintiffs have placed proper notices of copyright pursuant to 17 U.S.C. § 401 on  
19 each respective album cover of each of the sound recordings identified in Exhibit A. These notices  
20 of copyright appeared on published copies of each of the sound recordings identified in Exhibit A.  
21 These published copies were widely available, and each of the published copies of the sound  
22 recordings identified in Exhibit A was accessible by Defendant.

23           19. Plaintiffs are informed and believe that the foregoing acts of infringement have been  
24 willful, intentional, and in disregard of and with indifference to the rights of Plaintiffs.

25           20. As a result of Defendant's infringement of Plaintiffs' copyrights and exclusive rights  
26 under copyright, Plaintiffs are entitled to statutory damages pursuant to 17 U.S.C. § 504(c) against  
27 Defendant for each infringement of each copyrighted recording. Plaintiffs further are entitled to  
28 their attorneys' fees and costs pursuant to 17 U.S.C. § 505.

21. The conduct of Defendant is causing and, unless enjoined and restrained by this Court, will continue to cause Plaintiffs great and irreparable injury that cannot fully be compensated or measured in money. Plaintiffs have no adequate remedy at law. Pursuant to 17 U.S.C. §§ 502 and 503, Plaintiffs are entitled to injunctive relief prohibiting Defendant from further infringing Plaintiffs' copyrights, and ordering that Defendant destroy all copies of copyrighted sound recordings made in violation of Plaintiffs' exclusive rights.

WHEREFORE, Plaintiffs pray for judgment against Defendant as follows:

1. For an injunction providing:

"Defendant shall be and hereby is enjoined from directly or indirectly infringing Plaintiffs' rights under federal or state law in the Copyrighted Recordings and any sound recording, whether now in existence or later created, that is owned or controlled by Plaintiffs (or any parent, subsidiary, or affiliate record label of Plaintiffs) ("Plaintiffs' Recordings"), including without limitation by using the Internet or any online media distribution system to reproduce (*i.e.*, download) any of Plaintiffs' Recordings or to distribute (*i.e.*, upload) any of Plaintiffs' Recordings, except pursuant to a lawful license or with the express authority of Plaintiffs. Defendant also shall destroy all copies of Plaintiffs' Recordings that Defendant has downloaded onto any computer hard drive or server without Plaintiffs' authorization and shall destroy all copies of those downloaded recordings transferred onto any physical medium or device in Defendant's possession, custody, or control."

1. For statutory damages for each infringement of each Copyrighted Recording pursuant to 17 U.S.C. § 504.

2. For Plaintiffs' costs in this action.

3. For Plaintiffs' reasonable attorneys' fees incurred herein.

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4. For such other and further relief as the Court may deem just and proper.

Dated: November 29, 2007

HOLME ROBERTS & OWEN LLP

By: 

MATTHEW FRANKLIN JAKSA

Attorney for Plaintiffs

BMG MUSIC; SONY BMG MUSIC

ENTERTAINMENT; WARNER BROS.

RECORDS INC.; INTERSCOPE

RECORDS; ELEKTRA

ENTERTAINMENT GROUP INC.;

MOTOWN RECORD COMPANY, L.P.;

LAFACE RECORDS LLC; FONOVisA,

INC.; and UMG RECORDINGS, INC.

# **Exhibit A**

**EXHIBIT A****JOHN DOE****IP Address:** 169.229.80.141 2007-06-09 06:11:44 EDT**CASE ID#** 132338828**P2P Network:** GnutellaUS**Total Audio Files:** 353

<u>Copyright Owner</u>	<u>Artist</u>	<u>Recording Title</u>	<u>Album Title</u>	<u>SR#</u>
BMG Music	Juan Gabriel	Siempre En Mi Mente	Por Los Siglos	303-951
SONY BMG MUSIC ENTERTAINMENT	Mariah Carey	Always Be My Baby	Daydream	215-243
Warner Bros. Records Inc.	Faith Hill	Breathe	Breathe	276-629
Interscope Records	Enrique Iglesias	Hero	Escape	303-794
Elektra Entertainment Group Inc.	Bjork	All is Full of Love	Homogenic	245-199
Motown Record Company, L.P.	Boyz II Men	I'll Make Love to You	I'll Make Love to You (single)	195-914
LaFace Records LLC	Usher	You Make Me Wanna	My Way	257-730
Fonovisa, Inc.	Priscila Y Sus Balas De Plata	Feliz Como Una Lombriz	Todo Por Ti	259-580